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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,820

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Christian Kovacik

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EXAMINER

NWUGO, OJIAKO K

ART UNIT

PAPER NUMBER

2612

NOTIFICATION DATE

DELIVERY MODE

01/06/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/560,820	Applicant(s) KOVACIK ET AL.	
	Examiner OJIAKO NWUGO	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objection

1. Claims 1-3, 10 and 12 are objected to because of the following informalities:
 - 1) Claims 1-3 needed claim status identifiers.
 - 2) In claim 10, “odes” should have spelled –codes--.
 - 3) Claim 12 has text after the period on line 3, or otherwise contains two different periods, on lines 3 and 11.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claim 12** is rejected is 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 12 has limitations of periodic radial laser beams that cause vasodilatation in subcutaneous layer of the skin. This was not disclosed in the specification. It appears that lines 4-11 are text that does not belong to this application as it pertains to matter totally irrelevant and unrelated in any way to the current invention/disclosure. NOTE: For compact prosecution, the following prior art consideration will treat claim 12 WITHOUT the subject matter of lines 4-11.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeff Lindsay et al US Patent 6982640 in view of William Ringland US Patent 6122391. (Hereafter referred to Lindsay and Ringland).

Regarding **Claim 1** Lindsay discloses in fig. 1 and col. 5 lines 15-17 a scanner 16 supported on the refrigerator and in association of tags 14 and used to monitor the freshness the of food products having tags 14 attached thereto. This reads on “A device for acquiring and monitoring over time the development of at least one product-related variable, including a support intended to be associated with the product and supporting a set of at least one sensor for measuring said variable”

Lindsay discloses col. 8 lines 36-44 in light of lines 60 - 65 and col. 10 lines 46-50 that scanner 16 links to database for information storage and retrieval via the internet. Further it generates alarm upon detecting expired products.

Lindsay does not embedded algorithm or software in database or file system. Ringland discloses in col. 15 lines 41-43 such known use of embedded database software.

. This read on “means for processing the data output by the sensor so as to monitor the development of said variable relative to threshold values, that wherein the

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processing means include a file system in which the data output by the sensor is stored and a management algorithm for organizing the storing of the data in the file system and managing the retrieval of said data, the file system and the management algorithm being embedded in the support”.

It would have been obvious for of ordinary skill at the time of the invention to incorporate embedded software Ringland into Lindsay for ease of use as taught by Ringland.

Regarding **Claim 2**, Lindsay discloses in col. 10 lines 50-60 the provision of the temporal history of product. In fig. 2 and col.9 lines 2-5 in light col. 4 lines 7-14 Lindsay discloses a computer that track storage duration. It does not explicitly disclose a clock but to track time the computer must have clock.

Regarding **claim 3**, Lindsay discloses in col. 11 line 10-25 tracking of history of carcass to meat product including the time duration of each phase.

Regarding **claim 4**, Lindsay discloses in col. 9 lines 50-54 a display 24 that displays alarms upon product expiration.

4. **Claims 5-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay in view of Ringland and further n view of Craig Nelson et al US Patent 7030777 (Hereafter referred to Nelson).

Regarding **claim 5** Lindsay and Ringland renders obvious all the limitation of **claim 4** except a color coded blinking LED. Nelson discloses in col. 8 lines 54-64 the use of various color coded blinking or intermittent LED to indicate various alert conditions.

It would have been obvious for one of ordinary skill at the time of the invention incorporate the blinking LED of Nelson into Lindsay to indicate various alert conditions.

Regarding **claim 6** Lindsay, Ringland and Nelson renders obvious all the limitation of **claim 5** including a color coded blinking LED. Nelson discloses in col. 8 lines 54-64 the use of various color coded blinking or intermittent LED to indicate various alert conditions.

Regarding **claim 7** Lindsay, Ringland and Nelson renders obvious all the limitation of **claim 6** including: Nelson discloses in col. 4 lines 20-24 batteries for powering the alert system.

Regarding **claim 8**, Lindsay in fig. 3 and col. 3 lines 45-55 the wireless transfer of product information or data from product to a remote computer.

Claim 9: as considered in **claim 8** wherein transfer is wireless.

Regarding **Claim 10**, Examiner will assume that by 'bar odes' applicant is indicating 'bar codes'. Lindsay discloses in col. 1 line 24-25 and col. 9 lines 47-49 the use of bar- coded information as data.

Regarding **claim 11**, Lindsay discloses in col. 10 lines 46-50 sensors that provide information to database. Lindsay discloses in col. 1 lines 20-25 the use of RFID technology to facilitate that system hence the database in relation to the sensor is remote. Further to access database information would require a display like monitor 38 as disclosed in fig.2 and col. 9 lines 5.

Regarding **claim 12** (depends from claim 11); Lindsay discloses that the remote monitoring center is connected to a computer network, in particular the Internet (col. 8, lines 36-51).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJIAKO NWUGO whose telephone number is (571)272-9755. The examiner can normally be reached on M - F 7.30am - 5.00pm EST, Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Lee can be reached on (571) 272 2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OKN

/Benjamin C. Lee/

Supervisory Patent Examiner, Art Unit 2612